

# NATIONAL ARCHIVES

## IRELAND



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14/15 July

P3.1.1

26 May 1982

*ahn - 1/6/1982*  
Mr David Neligan  
Assistant Secretary  
Anglo-Irish Division  
Department of Foreign Affairs

Dear David

I enclose for appropriate action copy of a petition to the UN Secretary-General by Mr Harold McCusker, M.P., on behalf of certain of his constituents in Northern Ireland, on the violation of human rights and fundamental freedoms which has been received from the U.N. The petition accuses both the U.K. and Irish Governments of breaches of various articles of the Universal Declaration of Human Rights.

We understand that the petition has been copied to the Irish and British Missions in New York, who have already discussed it. It is expected that the communication will be considered at the meeting of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in August/September 1982 in Geneva. The British Mission has informed us that in line with their usual practice the U.K. intends to reply to this communication at that meeting. They have suggested that we might wish to consult with them before they issue this reply.

We would be grateful for instructions on how we should deal with this, particularly as Ireland is not represented at the Sub-Commission meeting. The question of consultation with the U.K. before they issue their reply may or may not be desirable, depending on circumstances at the time. Your views on this aspect would also be appreciated.

Yours sincerely

Francis Mahon Hayes



Télégrammes : UNATIONS, GENÈVE

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RÉF. N° : G/SO 215/1 GEN (IREL)

(à rappeler dans la réponse)

Palais des Nations

CH - 1211 GENÈVE 10

The Secretariat of the United Nations presents its compliments to the Permanent Mission of Ireland

..... to the United Nations Office at Geneva and has the honour to transmit, in accordance with Economic and Social Council resolution 728 F (XXVIII), copies of a communication dated 20 March 1982, concerning human rights, which inter alia refers to Ireland.

A brief indication of the substance of the communication will be included in a confidential list of communications which is to be submitted to the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities under Economic and Social Council resolutions 728 F (XXVIII) and 1503 (XLVIII).

Any reply which the Permanent Mission may wish to transmit on behalf of its Government under the above mentioned resolutions should be forwarded to the Division of Human Rights, United Nations Office at Geneva, with an indication as to whether the reply is to be presented to the Commission and the Sub-Commission in summary form or in full.

24 May 1982

A handwritten signature in dark ink, appearing to be 'J. P. ...', written over the date.

(UK 301KLL)  
20 March 1982

UNITED NATIONS  
ECONOMIC AND SOCIAL COUNCIL  
RESOLUTIONS 1235 (XLII) and 1503 (XLVIII)  
COMMISSION ON HUMAN RIGHTS  
SUBCOMMISSION ON PREVENTION OF DISCRIMINATION  
AND PROTECTION OF MINORITIES  
RESOLUTION 1 (XXIV)

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PETITION TO THE SECRETARY GENERAL  
OF THE UNITED NATIONS

PRESENTED

by

HAROLD McCUSKER

Member of the Parliament of the United Kingdom of Great Britain and Northern Ireland for the Parliamentary Constituency of Armagh, on behalf of certain of his constituents and others in Northern Ireland who have by reason of their political views and religious beliefs suffered and continue to suffer violations of their human rights and fundamental freedoms in consequence of a campaign of terrorism waged against them seeking to deny them the right to life and self determination.

1. Standards and Criteria

The Petitioner submits as follows:-

- (1) The object of this Petition is consistent with the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the other applicable instruments in the field of human rights.
- (2) There are reasonable grounds to believe that the complaints reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms.

2. Source of Communications

The presenter of this Petition represents a group of persons who are victims of the violations referred to below and has direct and reliable knowledge of those violations, is acting in good faith in accordance with recognised principles of human rights and not resorting to politically motivated stands contrary to the principles of the Charter of the United Nations.

*Yes,  
Technical  
basis*

3. Rights Which Have Been Violated

The Petitioner, on behalf of those he represents, alleges that the following rights and international obligations have been violated and breached by the Governments of the Republic of Ireland and of the United Kingdom

(i) Universal Declaration of Human Rights:

(a) Article 2; Freedom from Discrimination

The facts alleged in support of the petition show that in certain parts of Northern Ireland terrorists

have murdered members of the civilian population purely and simply because they are Protestants. Further or in the alternative it is alleged that this article is violated by discrimination on the grounds of political opinion in that the victims of Irish Republican Army terrorists (the Provisional I.R.A.), and of like organisations, have been murdered because they support the maintenance of the union between Great Britain and Northern Ireland.

(b) Article 3; The Right to Life

The victims of the terrorists have been denied the right to life.

(c) Article 5; Torture

Some of the victims of the Provisional I.R.A. have been tortured before they were murdered.

(d) Article 7; The Right to the Equal Protection of the Law

In so far as it has been principally the Protestant and unionist population of Northern Ireland has suffered from Republican terrorists these people have been denied the equal protection of the law.

(e) Article 16(3); The Right to Protection of the Family

The persons on behalf of whom this petition is lodged are the close surviving relatives of the murdered victims of terrorists. The murder of a father, a mother, a husband, a wife or a brother or sister has deprived them of the enjoyment of a proper family life.

*Outline  
Constitution*

(f) Article 18; The Right to Freedom of Religion

The petitioner refers the Secretary General to the contents of paragraph (i) (a) of this section.

(ii) The Convention on the Prevention and Punishment of the Crime of Genocide, 1948:

(a) Article IV (persons committing genocide shall be punished)

The terrorist campaign of the Provisional I.R.A., and of like organisations, in Northern Ireland amounts to a campaign of genocide against the Protestant and/or unionist population of Northern Ireland, particularly in the zone adjacent to the land frontier as delineated in Appendix 2 and many known or suspected terrorist remain at large in Northern Ireland and in the Republic of Ireland.

(b) Article VII (genocide shall not be considered a political crime for the purposes of extradition)

The Courts of the Republic of Ireland have consistently refused to extradite persons accused of terrorist crimes to Northern Ireland on the ground that those crimes are political offences and the Government of the Republic of Ireland has refused to enact appropriate legislation to permit such extradition of alleged terrorist offenders. The Secretary General is referred to the table of extradition applications in Appendix I.

(c) Article VIII (a High Contracting Party may call upon the competent organs of the United Nations to take action to prevent genocide)

The Government of the United Kingdom has failed to invoke the machinery of the United Nations against

the Government of the Republic of Ireland to secure the extradition of suspected terrorists from the Republic of Ireland to the United Kingdom. The failure of the Government of the Republic of Ireland to extradite terrorists has led to the territory of the Republic being used as a sanctuary by terrorists and as a place from which terrorists may launch their genocidal attacks into Northern Ireland. The Petitioner refers the Secretary General to Map II as an indication of how much terrorist activity is concentrated within 20 kilometers of the land frontier, and to Map III as an indication of how terrorist incidents in the Petitioner's own constituency are often located upon cross-border roads giving the terrorists an easy escape route into the Republic of Ireland.

4. Responsibility of the Respondent Governments For the Violations

Under and by virtue of the Proclamation in the Preamble of the Universal Declaration of Human Rights all Member States of the United Nations are under a positive obligation to secure the protection of the rights set forth in the Declaration. This imposes on the Member States not only an obligation not to infringe those rights by state action, but also to take action to ensure that those rights are not infringed by third parties. The Petitioner claims that the security policy of the Government of the United Kingdom gives inadequate protection to the law-abiding people of the province and



fails to deal adequately with terrorism. The Petitioner claims that the Government of the Republic of Ireland has failed to take adequate action to prevent its territory being used as a place from which terrorism is planned, organised and executed.

The Petitioner submits that it is well established in international law that where a state has failed to take adequate action to suppress terrorism within its territory the state itself can be held to have a responsibility in international law in respect of the acts of the terrorists themselves. In particular regard ought to be had to the authorities on the principles of state responsibility in international law for the protection of aliens within the state who suffer by reason of uncontrolled or unpunished acts of violence perpetrated against them. The Petitioner refers by way of example to the following authorities:

*Comp et.*  
Janes (United States) -v- United Mexican States (1926) U.N.  
Reports, Vol. IV, 82

The British Property in Spanish Morocco Case (1923) U.N.  
Reports, Vol. II, 615

The United Nations Draft Convention on State Responsibility  
Article 11.

The Petitioner submits that as those detained or convicted under anti-terrorist legislation have been able to see to the vindication of their human rights, so the United Nations should be seen to be underwriting the rights of the victims of terrorism.

5. Contents of Communications and nature of allegations

- 11
- (1) The people whom the Petitioner represents are the victims of a sustained and calculated campaign of genocide against them and their community on account of their political opinion and/or religious belief.
- (2) These people live in the counties of Armagh, Tyrone and Fermanagh in Northern Ireland and many of them live within a few miles of the international land frontier between Northern Ireland and the Republic of Ireland.
- (3) For a period of 10 years, and more, a sustained campaign of political terrorism has been waged by illegal terrorist groups against the people of Northern Ireland in general, and in particular the right of such people to self determination.
- have \* they  
the right
- (4) This unremitting campaign of murder and destruction of property and livelihoods has extended to every part of Northern Ireland. But it is in the frontier areas hereinbefore referred to that the reign of terrorism has continued longest, has been least checked and has had the most significant impact on the small communities living there. The Petitioner refers to Map II to illustrate this event. In particular in the frontier areas over 275 people have been murdered by such acts of terrorism. The effect of such a campaign of isolated rural communities is incalculable.
- Get \*  
material  
mixed  
aspect  
of overall  
level of  
violence
- (5) Most of these murders have been committed within a few miles of the frontier, across which have

come the perpetrators, the arms and explosives, and back across which the perpetrators afterwards have made a speedy and safe refuge. The Petitioner refers the Secretary General to Map III as an indication of how terrorist incidents in the Petitioner's own parliamentary constituency are often located in and around cross-border roads giving the terrorists an easy escape route into the Republic of Ireland. In spite of heavy casualties suffered by the regular British Army in South Armagh and elsewhere (over 81 serving soldiers have been murdered) the number of murders of ordinary members of the community who may have been serving or former members of the part time local security forces is substantially larger (over 100 members have been murdered) and with the number of civilians being much less (over 75).

- (6) In order to measure the full impact on such communities there must be added to the murders, the maimed in body or mind; the bereaved families, the dislocation of normal life by constant threat and restrictive precautions, and the destruction of premises and loss of employment and investment by bombing. The extent of the hardship is not always apparent to a visitor due to the resilience of the victims and their determination to carry on their normal life or rebuild their properties. Nevertheless each of the victims has suffered grievously and many have felt forced to abandon

their homes farms or businesses or to abandon or severely restrict their normal activities of life in order to take the essential precautions against attack on them and their families. It must be acknowledged that the respect for the fundamental freedoms and human rights of the Petitioners has been disregarded.

- (7) The terrorist campaign in Northern Ireland cannot in any way be characterised as a military campaign since the principal targets are so frequently civilian. Of the explosion targets in the period 1969-77, only 13% were army or police targets, while 34% were shops or offices; a further 12% were public houses or club premises, 8% were industrial targets and 6% were residential. Of the deaths which occurred in the same period as a result of the present terrorist campaign 73% were civilians. Even when the terrorists attack the security forces it is usually when they are off-duty and easy targets who can be shot in the back in cold blood, or in the sitting-room in front of their family. Up until the present the Ulster Defence Regiment, the locally recruited part-time regiment of the army, has suffered 121 men and women killed; only 19 of these were killed on duty; the remaining 84.3% were killed when they were off-duty. The information contained in Appendix II, is an indication of the effect of terrorist violence on these small localities; the figures also show

the impact upon the Protestant community in particular, and how many deaths of Catholic members of the community are due to the Provisional Irish Republican Army and like organisations. The figures reveal that out of a total number of 64 deaths through terrorism along the southern frontier in the period 1978 to 1981, 49 of the victims were Protestant and 15 of the victims were Catholic, and it will be seen that the Protestant population has suffered disproportionately. It is even more striking that the Protestant population has not been responsible for any of the Catholic deaths in this period. The figures show that of all of the Protestant victims and also 14 Catholic victims lost their lives at the hands of the Provisional I.R.A. and like republican terrorist groups.

\*  
inaccuracies  
check  
figures

Is this  
correct  
X

The Petitioner respectfully submits that this underlines the proven commitment of those whom he represents to abide by the rule of law and not be provoked into any retaliation despite this calculated campaign of murder against them.

This adherence to the maintenance of order under the law requires vindication by the acceptance and thorough investigation of the complaints raised in this Petition.

- (8) It is submitted that the Government of the United Kingdom of Great Britain and Northern Ireland is in breach of its international obligations in regard to the defence and protection of human rights

and fundamental freedoms in permitting the continued violation of such human rights and assault on human dignities to continue for such a period of time and to have such a severe and disproportionate impact and effect on such small local communities.

(9) It is the Petitioners' submission that Ireland is in breach of the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the other applicable instruments in the field of human rights as they fall to be construed in accordance with the principles of international law set out in the foregoing sections of this Petition

- (i) Ireland has permitted its territory to be used as the base for acts of terrorism committed across the international frontier into Northern Ireland without taking adequate or effective steps of control or surveillance or to apprehend and punish the perpetrators.
- (ii) It is submitted that Ireland's failure to extradite terrorists, or to amend its laws on extradition, or to ratify the European Convention on the Suppression of Terrorism has had the effect of encouraging the campaign of terrorism.
- (iii) The constitutional claim to the territory of Northern Ireland contained in Articles 2 and 3 of the Constitution of Ireland constitutes a denial of the right to self determination of

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the people of Northern Ireland. In summary, such claim:-

(a) serves to legitimise the actions of the Provisional I.R.A.

*Legal to check covered?*  
(b) constitutes a breach of a principle of international law by failing to give de jure recognition to the territory of Northern Ireland as part of the United Kingdom of Great Britain and Northern Ireland

*Art. 7. Charter*  
*Political Sect.*  
(c) constitutes a breach of the principle of non-interference in the internal affairs of another sovereign state.

(d) results in the Government of Ireland being in breach of the Charter of the United Nations, the Universal Declaration of Human Rights and the other applicable instruments in the field of human rights so far as people in Northern Ireland such as the Petitioners are concerned. As such, the claim defeats and violates the said treaties and international instruments and the mutuality of member states' obligations in so far as Northern Ireland is concerned.

*A.I.\**  
(iv) It is also submitted that this territorial claim and the campaign of terrorism has been directly or indirectly sustained and encouraged

by Ministers of the Government of Ireland and other persons of high political importance in the Republic of Ireland.

(v) It is finally submitted that in 1970 the Government of Ireland was responsible for the grant of public funds which were used for the purchase of arms to assist the I.R.A. in their campaign of violence. This confirms their responsibility in respect of the campaign of terrorism being waged in and against Northern Ireland and for the breaches of the human rights and fundamental freedoms alleged.

(10) Further particulars and details of individual complaints will be furnished upon presentation of this Petition to each of the said Governments.

6. Existence of other remedies

(a) It is submitted that this Petition is not rendered inadmissible by reason of the fact that it does not prejudice the functions of the specialised agencies of the United Nations system.

(b) It is submitted that there are no domestic remedies available to the Petitioners. This confirms and underlines the significance of this Petition and the requirement for action by the Commission on Human Rights in exercise of their jurisdiction to ensure the fundamental freedoms and human rights of the Petitioners and to uphold their right in International Law to self determination.

*J. Carroll.*

*Not a  
material  
part of  
evidence*

**CLIA**



(c) It is submitted that the States concerned have not settled or made any attempt to settle these cases in accordance with the principles set forth in the Universal Declaration of Human Rights and other applicable documents in the field of human rights.

Legal  
sect.

7. Timeliness

The Petitioner submits that everything reasonably possible has been done to draw to the attention of the States concerned the need for effective and prompt action on their part, the violations are continuing and this Petition is being made to the United Nations within a reasonable time.

8. Objects of the Petition

The objects of the petition are:-

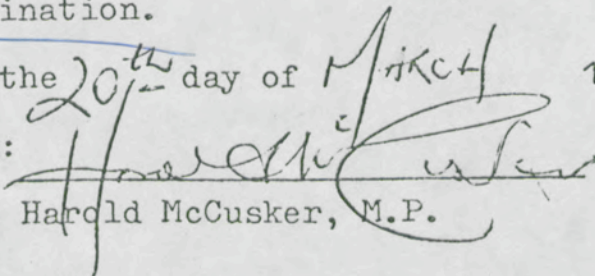
- (1) To ensure that the Governments of the United Kingdom and of the Republic of Ireland will secure the rights and freedoms defined in the Universal Declaration of Human Rights, Articles 2, 3, 5, 7, 16(3) and 18, and to ensure that both governments comply with their obligations under the Convention on the Prevention and Punishment of the Crime of Genocide.
- (2) To bring to the attention of the United Nations breaches of the foregoing treaty provisions by the respondent governments.
- (3) To determine the compatibility with the Universal Declaration of Human Rights and the Genocide Convention of failure by the Government of the

Republic of Ireland to extradite terrorists to stand trial for their crimes.

- (4) To determine the compatibility with the Genocide Convention of the failure by the United Kingdom Government to take action against the Government of the Republic of Ireland under the Genocide Convention.
- (5) To ensure the observance of the legal engagements and obligations undertaken by the Respondent Governments in the Universal Declaration and the Genocide Convention.
- (6) To demonstrate that the Universal Declaration and the Genocide Convention are such as will afford required legal protection to individuals and groups of individuals who are the victims of or threatened by a campaign of terrorism.
- (7) To demonstrate that the Universal Declaration and the Genocide Convention are such as will afford required legal protection to individuals and groups of individuals who are the victims of or threatened by a campaign of genocide.
- (8) To defend and vindicate the Petitioners right to self determination.

Dated the 20<sup>th</sup> day of MARCH 1982.

Signed:

  
Harold McCusker, M.P.